

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK DISTRICT  
COUNCIL OF CARPENTERS  
PENSION FUND, et al.

Petitioner,

07 Civ. 11213 (PKC)

-against-

ORDER GRANTING PETITION

WALL TO WALL FLOORING, INC.,

Respondent.  
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P. KEVIN CASTEL, U.S.D.J.

This petition to confirm an arbitration award was filed on December 13, 2007. Service was effectuated on respondent, pursuant to New York Business Corporation Law § 306, by delivering a copy to the Secretary of State of New York. No response to the petition has been filed. Because a petition to confirm an arbitration award ought not be granted on default, I will proceed to adjudicate the petition. See Blair & Co., Inc. v. Gottdiener, 462 F.3d 95, 109 (2d Cir. 2006)(“default judgments in confirmation/vacatur proceedings are generally inappropriate.” ).

This court has subject matter jurisdiction by reason of section 301 of the Labor Management Relations Act (“LMRA”), 29 U.S.C.A. § 185. The benefit funds at issue were established and maintained pursuant to section 302 (c)(5) of the LMRA, 29 U.S.C. § 186(c)(5).

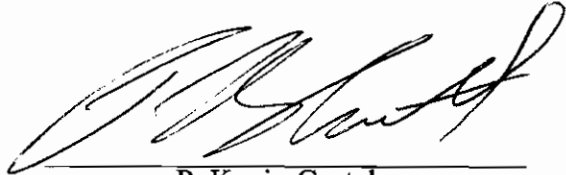
The Collective Bargaining Agreement (“CBA”) between the parties constituted a valid agreement to arbitrate an issue relating to the failure of respondent to

make contributions to the benefit funds. The dispute was submitted to a duly designated impartial arbitrator, Roger E. Maher. After proper notice to the parties, the arbitrator held a hearing and rendered an award in writing on October 1, 2007. The arbitrator found in favor of the petitioner and concluded that respondent, "is delinquent in Fringe Benefit monies due under its written agreement and is also obligated to pay delinquency assessment and interest on its delinquency, plus an attorney's fee to the Petitioners and the fee of the undersigned Arbitrator, and court and audit costs. . . ." Petitioner was awarded \$18,710.31 with interest at the rate of 10% from the date of the award.

I conclude that the award is based in fact and law and the petition to confirm is GRANTED. The petitioner is entitled to reasonable attorneys' fees and costs in connection with proceedings to confirm the award. I have reviewed the affidavit of services and conclude that it supports an award; the time spent and the hourly rates are reasonable. Fees of \$1,720 and costs of \$60.00, a total of \$1,780, are awarded.

Judgment will enter.

SO ORDERED.

  
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P. Kevin Castel  
United States District Judge

Dated: New York, New York  
March 6, 2008